


CLEAN AIR ACT7-42. Noncompliance Penalty: Assessment in the Absence of State Action

1. **AUTHORITY.** Pursuant to regulations promulgated under Section 120 of the Clean Air Act:
  - a. To assess and receive payment of a noncompliance penalty against every person described in the noncompliance penalty section of the CAA where the state has a delegation in effect but fails to assess or collect the penalty as required.
  - b. To negotiate and sign consent agreements memorializing settlements between the U.S. Environmental Protection Agency and respondents prior to the issuance of a notice of noncompliance.
2. **TO WHOM REDELEGATED.**
  - a. Director, Enforcement and Compliance Assurance Division, for authorities 1.a. and 1.b.
  - b. Regional counsel, for the authority to negotiate consent agreements in 1.b.
3. **LIMITATIONS.**
  - a. Any official exercising this authority must first consult with the assistant administrator for the Office of Enforcement and Compliance Assurance. The AA may waive, in writing, the consultation requirement.
  - b. The agency official who signs the notice of noncompliance should sign the settlement agreement.
4. **REDELEGATION AUTHORITY.**
  - a. These authorities may be redelegated to the branch chief level, or equivalent, and no further.
  - b. An official who redelegates an authority retains the right to exercise or withdraw the authority. Redelegated authority may be exercised by any official in the chain of command down to the official to whom it has been specifically redelegated.
5. **ADDITIONAL REFERENCES.** Section 120(a)(A) and (B) of the CAA.

  
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Debra H. Thomas  
Acting Regional Administrator

APR 29 2019  
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Date